IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

PRINCETON DIGITAL IMAGE CORPORATION,
 	
             Plaintiff,
 	
     v.
 	
 HEWLETT-PACKARD, et al.;
 	
             Defendants.
	Civil Action No. 1:12-cv-779 (RJS)

AND RELATED COUNTERCLAIMS

DECLARATION OF CURT BEHREND IN SUPPORT OF DEFENDANT HEWLETT-PACKARD COMPANY'S MOTION FOR SUMMARY JUDGMENT OF NONINFRINGEMENT BASED ON SETTLEMENT AGREEMENT BETWEEN <u>PLAINTIFF AND MICROSOFT CORP.</u>

I, Curt Behrend, hereby declare as follows:

1.   I submit this declaration in support of the motion for summary judgment filed by my employer, Hewlett-Packard Company ("HP"). I have personal knowledge of the facts set forth in this declaration and could testify competently to these matters if called to do so.

2.   I currently work for HP as a product development engineer in HP's inkjet printer business unit. I have been working for HP for nearly 30 years, since July 1984. I have been a product development engineer for HP for about 25 years. During the period 2004 through 2007, I was working on firmware for HP's inkjet printers, which is the computer code that runs on the inkjet printers. As a result of my nearly 30 years working with HP inkjet printers, I am familiar with the structure, function and operation of those inkjet printers.

3.   I understand that the plaintiff in this case is accusing of infringement certain models of HP inkjet printers that were sold from 2004 through 2007. I understand that the

relevant models are ones that can perform a number of different functions, such as printing, scanning, copying and faxing. HP calls these devices All-in-One inkjet printers.

4.   Since well before 2004, HP's inkjet printers have been designed to work on a Microsoft platform, so that the inkjet printers could perform their functions seamlessly in a Windows operating system environment. During the time period 2004 through 2007, the vast majority of HP's efforts in developing inkjet printers was devoted to making those printers work in a Microsoft Windows environment, as opposed to other types of operating systems. Before Microsoft releases a new operating system, Microsoft will send an advance version of the operating system software to HP, so that HP along with Microsoft could design HP's inkjet printers to work with the new operating system. I understand that this occurred before the release of Windows XP.

5.   Since the late 1990s, HP's inkjet printers had to undergo Windows Hardware Quality Labs ("WHQL") testing before they could be certified as a Microsoft Windows compliant products. WHQL testing is Microsoft's testing process, which involves two basic steps. First, Microsoft designs a set of features and functionalities that the HP inkjet printers must have to be able to operate seamlessly with Microsoft's operating systems. When HP designs its inkjet printers, it must include the features and functionality required by Microsoft. Second, HP must perform a series of tests on its inkjet printers before releasing them for sale. HP submits the results of those tests to Microsoft for review. Only after HP's inkjet printers pass WHQL testing are they certified for use with a Microsoft Windows operating system. HP has employees who are responsible for performing WHQL testing on HP's products.

6.   HP inkjet printers that pass the WHQL tests get to use a "Certified for Windows" logo on the product. One example of HP's use of the Microsoft logo is in the photograph below,

which is a picture of the front and side of a box that the HP Photosmart C6180 All-in-One Printer

shipped in:
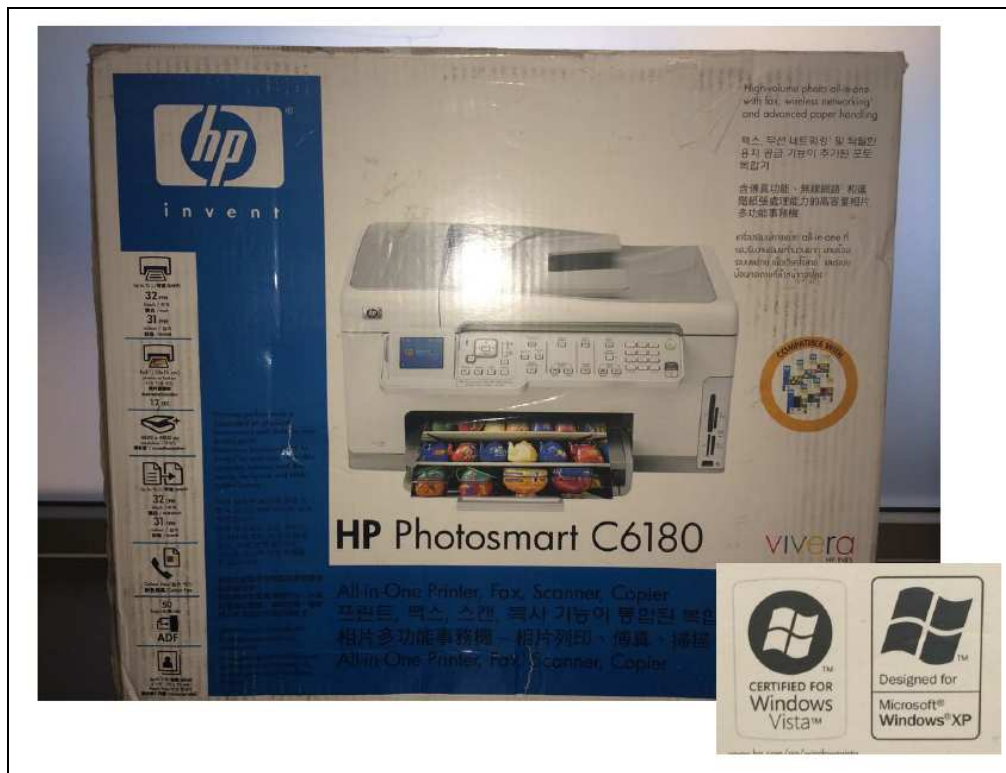
The logo indicates that the product passed Microsoft's WHQL testing and was designed to be

used with the Microsoft Windows XP and Microsoft Windows Vista operating systems.

7.   HP has employees who create software and drivers for HP's inkjet printers. This

team uses the Microsoft Windows Software Development Kit ("SDK"), along with the Microsoft

Device Development Kit ("DDK"), to create software and drivers for HP's inkjet printers. The

Windows SDK allows HP to develop printer software and the DDK allows HP to create drivers

that work with the Windows operating systems. HP has been using the Windows SDK and DDK

to create software and drivers since at least 2004. Since at least 2004, HP has also used the

Microsoft Windows installer (also called an "MSI installer"), which is a Microsoft-provided

software component used for the installation, maintenance and removal of HP software on

Microsoft Windows computers.

8.   When the printer drivers for HP's inkjet printers pass WHQL testing, Microsoft

creates a digitally signed certification file, called a Microsoft Catalog file (or ".cat" file after

their file extension). These Microsoft .cat files are sent by Microsoft to HP for inclusion with

HP's inkjet printers. An example of the Microsoft .cat files shipped with the HP Officejet C6180

All-in-One Printer is shown in the screenshot below. The .cat files shown highlighted in blue in

were provided by Microsoft to HP for use with several HP inkjet printer models.
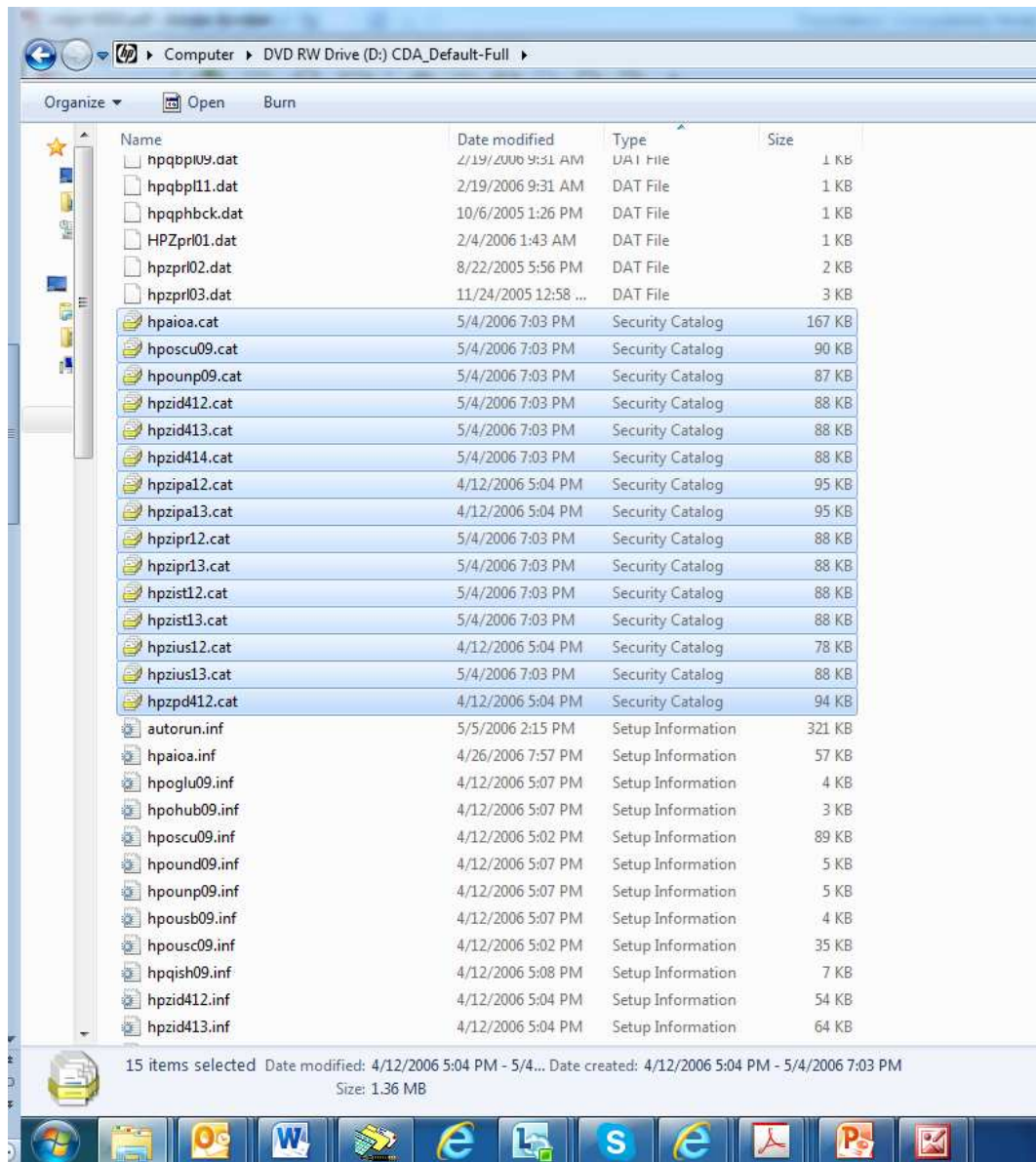
9.   These Microsoft .cat files allow the HP Officejet C6180 All-in-One Printer to be seamlessly plugged into and operated with a PC running a Microsoft operating system (in this example, Windows XP or Windows Vista). Without these .cat files, an error message would appear on the PC monitor when the printer is plugged into the computer, warning the user that the printer may not be Microsoft compatible.

10.   To my knowledge, all HP inkjet printers passed WHQL testing, were certified by Microsoft as Windows-compatible devices, and shipped with Microsoft .cat files so that the printers could be operated with a Microsoft Windows operating system during the 2004-2007 timeframe.

11.   The HP inkjet printers also incorporated the Microsoft FAT32 File System. "FAT" is short for File Allocation Table. Microsoft's FAT32 File System is a file system architecture. The Microsoft FAT32 File System is implemented in the firmware running on the HP inkjet printer, as well as on the Microsoft Windows PC itself.

12.   I was deposed in this case on January 31, 2014 in San Diego, California. My deposition lasted less than one hour. I was not asked about any of the information set forth above during my deposition.

13.   I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: April 24, 2014   _____
                              Curt Behrend